

prosthesis comprising an at least two-piece humeral head prosthesis, composed of a calotte or joint head, and an attachment body including an attachment part for the mounting attachment of the calotte, as well as a mounting segment to effect an at least cement-free anchoring of the attachment body within the bone. The claimed method includes a step of fitting the joint head or calotte of the prosthesis on the attachment body.

A further difference between the reference and claim 8 is that the claimed method is one involving cement-free anchoring of the attachment body within the bone as recited in claim 8 as amended. Claim 8 recites that in the method of mounting segment effects "cement-free anchoring of the attachment body within the bond". On the other hand, the method of Gunderian, et al. involves the steps of drilling at least two holes substantially perpendicular into the resected portion of the scapula, and filling the holes with cement for anchoring the pegs 4 of the glenoid prosthesis 2, see paragraph [0016] and claim 1 of Gunderian, et al., for example.

A third difference between the method of claim 8 of the present invention and that of Gunderian, et al. is that the present invention involves the use of an at least nearly circular projecting collar projecting from the disk-like positioning body about the medial hole, onto which the calotte can be attached. In the example embodiment illustrated in the application drawings, the disk-like positioning body 5 has a projecting collar 15 projecting from the positioning body. The disk surface 203 on the glenoid prosthesis disk-like body in Gunderian, et al. is not a "projecting collar" as disclosed and claimed by Applicants. The cement-free anchoring of the shoulder joint prosthesis in the method of the present invention is only possible by using the hollow screw

provided to affix the positioning body to the bone through the projecting collar and the medial hole.

In view of the aforementioned differences between the claimed method of claim 8 of the present invention and that disclosed by Guederian, et al., it is respectfully submitted that claim 8 is not anticipated under 35 U.S.C. §102(e) by Guederian, et al.

Claims 1, 4-7 and 12 stand rejected in the Office Action under 35 U.S.C. §103(a) as being unpatentable over Tornier 2003/0149485 in view of Guederian, et al. 2004/0059424. The references were cited for the reasons and in the manner stated on pages 3 and 4 of the Office Action.

Claims 10 and 11 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Guederian, et al., 2004/0059424 in view of Tornier 2003/0149485 as stated on pages 4 and 5 of the Office Action.

These rejections of the claims under 35 U.S.C. §103 over the combination of Guederian, et al. and Tornier are hereby traversed and reconsideration thereof is respectfully requested in view of Applicants remarks set forth above with respect to Guederian, et al. and the further remarks set below.

At the outset, Applicants do not at all agree with the arguments set forth in the Office Action, as, first of all, it is not at all obvious, 35 U.S.C. §103, to the artisan of ordinary skill to combine the two prior art documents by Guederian, et al. and Tornier, and, furthermore, even combining the two documents would not lead to the solution of the present invention as recited in the claims as amended.

First of all, Applicants respectfully note that there are some general differences between the two prior art solutions and that of the present invention, namely:

Guederian, et al. describe a prosthetic glenoid component with attachment to a glenoid surface in contrast to the present invention where the attachment of a humeral head is described and claimed as discussed above. Furthermore, Tornier is describing an inverse arrangement, and finally, the described prosthetic component is not at all for a cement-free attachment.

Again, within Tornier, the described prosthetic element can be used in particular in the production of a glenoid part of a total shoulder prosthesis, as mentioned on page 2 in the paragraph [0017]. Finally, again the attachment is not at all cement-free.

In addition to these basic differences, it is not seen that combining Guederian, et al. and Tornier so as to arrive at Applicants claimed invention would have been obvious to one of ordinary skill in the art under 35 U.S.C. §103. Using a screw as proposed by Guederian, et al., within the Tornier solution would not make sense at all, i.e., first a shank 21 has to be removed from part 2 of the Tornier arrangement. The question then arises, how component 1 should be attached to part 2, if the interconnecting part 3 is no longer present. With such a modification, is it proposed that the screw 8 according to the Guederian, et al., solution should also include an internal central bore 25 according to Tornier with windings, within which this inner connecting part could be introduced?

Or otherwise, if the interconnecting part 3 would not be used, the question arises how the principal component 1 should be attached to the plate

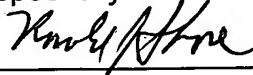
2. Of course, there is a peripheral surface 24 at the principal part 2 onto which the principal part could be arranged, but, as one can see very clearly within Figures 2, 3, 4 and 5, the arrangement first of all would not be very stable, and secondly the position would not be well defined. In other words, in any case there is need of an interconnecting part, which would make the construction more complicated.

As a consequence, Applicants are convinced that combining the two solutions of Guederian, et al. and Tornier would not lead to the solution as proposed and claimed by Applicants. As noted above, an important feature of the present invention is that the disk-like positioning body has, in addition to the medial hole, an at least nearly circular projecting collar above the medial hole, into which the calotte can be attached. Finally, the cement-free arrangement of the shoulder joint prosthesis of the present invention is only possible by using the hollow screw provided to affix the positioning body to the bone through the projecting collar and the medial hole. All of these elements as recited in the claims as amended cannot be found, even by combining the two documents. In view of this, it is respectfully submitted the claims in the application are not obvious over 35 U.S.C. §103 in view of the cited references. Accordingly, reconsideration and allowance is respectfully requested.

Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-

2135 (Case No. 635.46315X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ronald J. Shore", is written over a horizontal line.

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Attachments